

Message Text

SECRET

PAGE 01 JAKART 00718 01 OF 02 171024Z
ACTION HA-02

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TO SECSTATE WASHDC PRIORITY 6194
INFO AMEMBASSY BANGKOK
AMEMBASSY MANILA
AMEMBASSY SINGAPORE
AMCONSUL SURABAYA
AMCONSUL MEDAN

S E C R E T SECTION 1 OF 2 JAKARTA 0718

LIMDIS

E.O. 11652: GDS
TAGS: OVIP, SHUM, SREF, ID
SUBJECT: ASSISTANT SECRETARY DERIAN'S DISCUSSION WITH PRESIDENT
SUHARTO

1. ASSISTANT SECRETARY DERIAN, ACCOMPANIED BY THE AMBASSADOR
AND DEPUTY ASSISTANT SECRETARY SIEVERTS, SPENT AN HOUR IN A FULL
AND FRANK DISCUSSION OF HUMAN RIGHTS WITH PRESIDENT SUHARTO
ON SATURDAY, JANUARY 14. ALSO PRESENT ON THE INDONESIAN SIDE
WERE ACTING FOREIGN MINISTER AND CONCURRENTLY JUSTICE MINISTER
MOCHTAR KUSUMAATMADJA AND MINISTER OF STATE AND STATE
SECRETARY SUDHARMONO.

2. IN CONTRAST TO HIS USUAL STYLE OF LAUNCHING INTO A MONOLOGUE,
PRESIDENT SUHARTO ASKED MS. DERIAN AT THE OUTSET IS SHE HAD ANY
INITIAL COMMENTS. MS. DERIAN REPLIED THAT SHE WANTED INITIALLY
TO RAISE TWO SUBJECTS. FIRST, WHE HAD BEEN DISTURBED TO LEARN
THAT 26 REFUGEES FROM VIETNAM HAD BEEN FORCED TO REMAIN ONBOARD
THEIR SHIP IN THE JAKARTA HARBOR SINCE NOVEMBER. WE AND OTHER
SECRET

SECRET

PAGE 02 JAKART 00718 01 OF 02 171024Z

NATIONS GREATLY APPRECIATED INDONESIA'S CONSTRUCTIVE ROLE IN
PROVIDING FIRST ASYLUM TO REFUGEES. WE WERE NOT ASKING
INDONESIAN TO ACCEPT REFUGEES PERMANENTLY, BUT VERY MUCH HOPED
THAT THE GOI REFUSAL TO ALLOW THESE REFUGEES TO LAND TEMPORARILY
DID NOT SIGNAL A CHANGE IN POLICY.

3. SUHARTO SAID HE HAD NOT HEARD ABOUT THIS PARTICULAR CASE,

BUT WOULD LOOK INTO IT. IF THESE REFUGEES NEED HELP, INDONESIAN WILL ASSIST THEM.THERE HAS BEEN NO CHANGE IN INDONESIAN POLICY. SUHARTO SAID. THE GOI WILL CONTINUE TO HELP REFUGEES IN TRANSIT TO THE LIMITS OF ITS ABILITY.

4. MS. DERIAN EXPRESSED APPRECIATION FOR THIS AND SAID SHE WOULD THEN LIKE TO EXPLAIN TO THE PRESIDENT OUR APPROACH TOWARD HUMAN RIGHTS. RESPECT FOR HUMAN RIGHTS IS A FIRM POLICY OF THE CARTER ADMINISTRATION. IT IS EMBODIED IN RECENT LEGISLATION. WE ARE COMMITTED TO DO WHAT WE CAN TO ADVANCE HUMAN RIGHTS AROUND THE WORLD IN ACCORDANCE WITH THE PRINCIPLES IN THE UN DECLARATION ON HUMAN RIGHTS AND IN LINE WITH OUR OWN IDEALS. IT IS NOT OUR WISH TO MAKE DEMANDS ON OTHER COUNTRIES, OR THREATEN THEM OR TELL THEM WHAT TO DO. AT THE SAME TIME, WE WANT TO BE SURE THAT ALL NATIONS UNDERSTAND OUR POLICY. IN THE CASE OF INDONESIAN, DETENTION OF POLITICAL PRISONERS HAS CREATED SOME TENSION BETWEEN US AND HAS ALSO DAMAGED INDONESIA'S IMAGE IN THE EYES OF OTHER NATIONS.

5. STRESSING THAT SHE HAD NOT COME TO CRITICIZE BUT ONLY TO SHOW OUR DEEP CONCERN, MS. DERIAN SAID WE UNDERSTAND WHY THE DETAINEES WERE TAKEN INTO CUSTODY AND WE APPRECIATE THE STRONG NEGATIVE FEELINGS TOWARD THEM IN INDONESIA. HOWEVER, EXPERIENCE SHOWS THAT WITH THE PASSAGE OF TIME THESE NEGATIVE FEELINGS SUBSIDE AND PEOPLE-EVEN MANY WHO FAVORED DETENTION ORIGINALLY-BECOME CONCERNED ABOUT DENIAL OF DUE PROCESS FOR
SECRET

SECRET

PAGE 03 JAKART 00718 01 OF 02 171024Z

THEIR FELLOW MEN. WE UNDERSTAND WHY THEY WERE DETAINED, BUT WE ARE UNABLE TO CONDONE THEIR CONTINUED CONFINEMENT WITHOUT THE BENEFIT OF DUE PROCESS OF LAW. THIS CONTINUED DETENTION CREATES PROBLEMS BETWEEN US.

6. MS. DERIAN SAID THE RECENT RELEASE OF 10,000 DETAINEES WAS A VERY SUBSTANTIAL MOVE. SHE HAD BEEN IMPRESSED IN HER TALKS WITH INDONESIAN OFFICIALS BY THEIR EXPERTISE AND GOOD UNDERSTANDING OF THE BASIC PRINCIPLES OF DUE PROCESS AND THE RULE OF LAW. SHE HAD BEEN IMPRESSED ALSO BY THEIR EFFORTS TO MEET PRESSING HUMAN NEEDS IN FIELDS SUCH AS FOOD, JOBS, AND HEALTH CARE.

7. MS. DERIAN SAID SHE HAD BEEN PLEASED TO LEARN FROM THE ACTING FOREIGN MINISTER THAT INDONESIAN IS IN THE PROCESS OF REVISING ITS LAWS ON INTERNAL SECURITY. THIS SHOULD STRENGTHEN THE RULE OF LAW IN PROTECTING HUMAN RIGHTS. SHE NOTED THAT THE RELEASE OF 10,000 PRISONERS IN DECEMBER SEEMED TO GO WELL AND SHE HAD BEEN TOLD THAT NO SERIOUS SECURITY PROBLEMS HAD ENSUED. SHE SAID SHE WAS NOT ASKING PRESIDENT SUHARTO FOR A DECISION NOW, BUT HOPED HE WOULD FIND IT POSSIBLE AFTER CAREFULLY CONSIDERING THE MATTER TO SPEED UP RELEASE OF THE REMAINING 20,000 DETAINEES. IT WOULD BE PREFERABLE TO DO THIS IN SMALL

GROUPS RATHER THAN WAITING TO RELEASE 10,000 IN LATE 1978.
THE IMPORTANT THING WAS NOT TO TRY TO MAKE A LARGE PRESS SPLASH
BUT JUST TO GO AHEAD STEADILY WITH THE RELEASES.

8. SUHARTO MADE NO DIRECT REPLY TO THIS USGGESTIONBUT LAUNCHED
INTO A DETAILED EXPLANATION OF INDONESIA'S BASIS APPROACH TOWARD
THE RELATIONSHIP BETWEEN THE INDIVIDUAL AND THE STATE. THE
UNITED STATES AND INDONESIAN, HE SAID, HAVE SIMILAR CONCEPTS

REGARDING HUMAN RIGHTS. THEY SHARE THE SAME PRINCIPLES, BUT
THESE VARY IN IMPLEMNTATION BECAUSE OF DIFFERENCE
CONDITIONS IN EACH COUNTRY. SUMMARINZING THE HERITAGE OF DUTCH
COLONIAL RULE AND INDONESIA'S REVOLUTIONARY STRUGGLE, SUHARTO
SAID INDONESIA SHARES THE U.S. VIEW THAT HUMAN BEINGS HAVE
SECRET

SECRET

PAGE 04 JAKART 00718 01 OF 02 171024Z

INALIENABLE RIGHTS BUT BELIEVES, IN ADDITION, THAT THE
INDIVIDUAL CANNOT LIVE ALONE--THAT HE MUST ADJUST TO THE
COMMUNITY. IN SHORT, IN INDONESIA'S VIEW, PEOPLE CANNOT
EXERCISE THEIR INDIVIDUAL RIGHTS WITHOUT REGARD TO THE RIGHTS
OF TOTHERS. THE DIFFERENCE BETWEEN THE UNITED STATES AND
INDONESIA, HE REITERATED, IS ONE OF INTERPRETATION AND
IMPLEMENTATION. IN INDONESIA'S OPIONION, THESE INDIVIDUAL RIGHTS
MUST BE EXERCISED IN ACCORDANCE WITH ONE'S SOCIAL RESPONSIBIES.

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PAGE 01 JAKART 00718 02 OF 02 171051Z
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SECRET SECTION 2 OF 2 JAKARTA 0718

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FCK MS. DERIAN INTERRUPTED TO NOTE THAT THE STATE ASLO HAS AN OBLIGATION TO THE PEOPLE. THE INDIVIDUAL IS HELPLESS UNLESS THE STATE EXERCISES RESTRAINT. WRONGFUL ARREST AND DETENTION ARE ALWAYS POSSIBLE AND SAFEGUARDS TO PREVENT THIS MUST BE BUILT INTO THE SYSTEM. SUHARTO FELL BACK ON THE ARGUMENT THAT THE DETAINEES HAD IN MANY CASES BEEN TAKEN INTO CUSTODY FOR THEIR OWN PROTECTION. WHILE THERE MAY BE LACK OF LEGAL PROOF THAT THEY ARE GUILTY, PEOPLE NONETHELESS BELIEVE THEY ARE. IF THEY WERE RELEASED PREMATURELY, SOCIETY MIGHT RETALIATE AGAINST THEM. MS. DERIAN INTERJECTED THAT THE INDIVIDUAL SHOULD HVE THE RIGHT TO SAY WHETHER HE WISHES TO BE PROTECTED. SUHARTO NOTED THAT IN SOME INSTANCES FAMILIES HAD REFUSED TO ACCEPT THOSE WHO WERE RELEASED. MS. DERIAN SAID THAT WHETHER A PERSON WAS DETAINED FOR HIS OWN SAFETY OR BECAUSE HIS FAMILY DIDN'T WANT HIM MISSED THE BASIC POINT. THAT POINT IS THE INTEGRITY OF THE HUMAN BEING UNDER GOD AND UNDER LAW.

10. ACTING FOREIGN MINISTER MOCHTAR INTERVENED TO DESCRIBE THE 1965 COMMUNIST COUP ATTEMPT AND THE STRONG PUBLIC REACTION
SECRET

SECRET

PAGE 02 JAKARTA 00718 02 OF 02 171051Z

AGAINST THOSE WHO WERE INVOLVED EVEN INDIRECTLY. MS. DERIAN SAID SHE WAS AWARE OF THIS. SHE FULLY UNDERSTOOD THE STRONG FEELINGS OF THE PEOPLE AND WAS AWARE THAT THEY ARE SLOW TO FORGIVE. NONETHELESS, THE ESSENTIAL POINT IS PROTECTION OF THE RIGHTS OF THE INDIVIDUAL. JUSTIFICATION FOR AN ACTION BY THE STATE DOES NOT TAKE AWAY THE STATE'S RESPONSIBILITY TO PROTECT THE INDIVIDUAL.
AL.
IN FACT, THAT RESPONSIBILITY BECOMES EVEN GREATER TOWARD PEOPLE WHOM THE STATE HAD DEPRIVED OF LIBERTY.

11. REPEATING HIS BASIC POSITION, SUHARTO SAID THAT WHILE THE DETAINEES FEEL THEIR HUMAN RIGHTS HAVE BEEN RESTRICTED, THEY SHOULD RECOGNIZE THAT THE INDIVIDUAL MUST ON OCCASION SACRIFICE HIS OWN RIGHTS IN THE INTERESTS OF THE BROADER RIGHTS OF SOCIETY. WHILE IT IS TRUE THAT THE INDIVIDUAL HAS GOD-GIVEN RIGHTS, HE CANNOT LIVE OR ACT ALONE. IN TAKING AWAY ONE OF THE INDIVIDUAL'S RIGHTS, WE ARE TRYING ONLY TO SERVE THE OVERALL INTERESTS OF THE COMMUNITY.

12. MS. DERIAN STRESSED THAT WHILE SHE AGREED THERE MUST BE RULES TO GOVERN THE BEHAVIOR OF SOCIETY, THE INDIVIDUAL MUST BE GIVEN AN OPPORTUNITY TO DEFEND HIMSELF. THE STATE HAS A SPECIAL OBLIGATION TO PROVIDE DUE PROCESS OF LAW TO EVERY CITIZEN, EVEN A KNOWN MURDERER. MS. DERIAN STRESSED THAT THERE WAS NO DISAGREEMENT BETWEEN THEM ON THE DUTIES OF CITIZENS TO THE SOCIETY

OR ON THE ESSENTIAL NEED OF THE STATE TO MEET BASIC HUMAN NEEDS. IN FACT, INDONESIA'S ACTIONS IN PROVIDING FOR THE WELFARE OF ITS PEOPLE ARE EXCELLENT. THE BASIC PROBLEM IS THE NEED OF THE STATE TO PROVIDE PROTECTION FOR THE INDIVIDUAL AGAINST ARBITRARY DETENTION WITHOUT DUE PROCESS OF LAW. THERE WAS DISAGREEMENT BETWEEN HER VIEW AND SUHARTO'S, SHW EMPHASIZED, ONLY IN THIS ONE AREA BUT THIS WAS ONE OF CRUCIAL IMPORTANCE.

SECRET

SECRET

PAGE 03 JAKART 00718 02 OF 02 171051Z

13. SUHARTO SAID THAT INDONESIA HAS FIRMLY ESTABLISHED RULES IN ITS CONSTITUTION AND IN ITS LAWS TO GOVERN SOCIETY. THESE ARE BASED ON DEMOCRATIC CONCEPTS. INDONESIA'S 1945 CONSTITUTION PLACES SOVEREIGNTY IN THE HANDS OF THE PEOPLE, AND THEIR WILL IS EXPRESSED THOUGH ELECTIONS AND THE TWO REPRESENTATIVE BODIES, THE PARLIAMENT AND THE PEOPLE'S CONSULTATIVE ASSEMBLY. THESE BODIES HAVE CREATED A SET OF DINDING RULES FOR SOCIETY WHICH REFLECT THE VIEWS OF THE PEOPLE. THE PRESIDENT IS THE "MANDATORY" OF THE PEOPLE'S CONSULTATIVE ASSEMBLY, AND HE HAS THE RESPONSIBILITY UNDER THE CONSTITUTION OT IMPLEMENT THE GUIDELINES OF STATE POLICY AND TO PROTECT SOCIETY AS A WHOLE.

14. CONCLUDING THE DISCUSSION, SUHARTO SAID IT WOULD TAKE DAYS TO UNDERSTANT THE TWO VIEWPOINTS. HE HOPED MS. DERIAN HAD HAD AN OPPORTUNITY TO BECOME MORE FAMILIAR WITH INDONESIA'S PRINCIPLES AND CONCEPTS. MS. DERIAN SAID SHE HAD INDEED HAD THIS OPPORTUNITY AND SHE HOEPD ALSO THAT PRESIDENT SUHARTO NOW UNDERSTOOD OUR POSITION MORE FULLY.

15. COMMENT: THOUGH THE DISCUSSION WAS BRISK, IT WAS FRIENDLY AND UNEMOTIONAL THROUGHOUT. SUHARTO PROBABLY IS NOT USED TO BEING INTERRUPTED, BUT HE GAVE EVERY APPEARANCE OF TAKING THE EXCHANGE IN STRIDE AND ALSO TAKING IT SERIOUSLY. HE APPARENTLY SUPPORTED THE RECENT RELEASE OF 10,000 DETAINEES OVER THE OBJECTIONS OF SOME OF HIS MILITARY COLLEAGUES. THIS DISCUSSION MAY HELP REINFORCE HIS WILLINGNESS TO RELASE DETAINEES. MASTERS

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